

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2638 Session of 2018

INTRODUCED BY STEPHENS, READSHAW, DAVIS, DRISCOLL, B. O'NEILL, BARBIN AND DEAN, SEPTEMBER 12, 2018

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, OCTOBER 10, 2018

AN ACT

1 Amending the act of December 8, 2004 (P.L.1801, No.238),
2 entitled "An act empowering municipalities, counties and
3 public transportation agencies to work cooperatively to
4 establish Transit Revitalization Investment Districts (TRID),
5 including partnerships with the National Railroad Passenger
6 Corporation requiring planning studies, comprehensive plan
7 and zoning amendments and use of existing statutes and
8 techniques to achieve transit-oriented development,
9 redevelopment, community revitalization and enhanced
10 community character through TRID creation; establishing value
11 capture areas as a means to reserve and use future,
12 designated incremental tax revenues for public transportation
13 capital improvements, related site development improvements
14 and maintenance; promoting the involvement of and
15 partnerships with the private sector in TRID development and
16 implementation; encouraging public involvement during TRID
17 planning and implementation; and providing for duties of the
18 Department of Community and Economic Development," in general
19 provisions, further providing for declaration of policy and
20 for definitions; and adding provisions relating to military <--
21 installation remediation- AND WATER, SEWER AND STORM WATER <--
22 SYSTEMS REMEDIATION PROJECTS; AND ESTABLISHING THE
23 REMEDIATION FUND.

24 The General Assembly of the Commonwealth of Pennsylvania
25 hereby enacts as follows:

26 Section 1. Section 102 of the act of December 8, 2004
27 (P.L.1801, No.238), known as the Transit Revitalization
28 Investment District Act, is amended to read:

1 Section 102. Declaration of policy.

2 The General Assembly finds and declares as follows:

3 (1) The overall purpose and legislative intent of this
4 act is to authorize public transportation agencies throughout
5 this Commonwealth to work cooperatively with counties, local
6 governments, transportation authorities, the private sector
7 and the National Railroad Passenger Corporation (AMTRAK) and
8 other providers of public transportation and passenger rail
9 services to create and designate Transit Revitalization
10 Investment Districts (TRIDs).

11 (2) The specific purposes and intent of a designated
12 TRID are to:

13 (i) Promote local, county and regional economic
14 development and revitalization activities through private
15 sector investment, reinvestment and joint development
16 activities in conjunction with public transportation
17 improvements.

18 (ii) Encourage multimunicipal, cooperative
19 approaches to generate new investment, reinvestment and
20 revitalization through transit-oriented development
21 around rail transit stations and along public
22 transportation corridors.

23 (iii) Increase overall ridership on public
24 transportation systems, including AMTRAK, while
25 generating additional revenues for current and expanded
26 services, capital improvements and related ongoing
27 maintenance.

28 (iv) Encourage and support municipal and
29 multimunicipal comprehensive plan implementation,
30 including consistency of plans at the local, county and

1 regional levels.

2 (v) Stimulate public-private partnerships created by
3 prospective development opportunities around, within or
4 adjacent to the transit system, station areas and transit
5 system components.

6 (vi) Establish appropriate mechanisms to capture the
7 real estate taxation and other values added by joint
8 development activities for reinvestment in the transit
9 system and local communities.

10 (vii) Encourage greater community involvement in
11 TRID location, design and implementation and resulting
12 investment activities.

13 (viii) Promote flexible, cooperative, coordinated
14 and enhanced support for innovative, intermodal solutions
15 in TRID development and implementation activities by
16 municipal officials, public agencies, nonprofit
17 organizations and the private sector.

18 (ix) Support TRID implementation by maximizing use
19 of existing Federal and State laws and programs that are
20 consistent with the purposes of this act.

21 (3) There is a lack of funding and knowledge relating to
22 remediation needed at military installations to address PFAS <--
23 contamination, and there is a need to provide for proper
24 infrastructure in the water, SEWER AND STORM WATER systems on <--
25 military installations and surrounding parcels.

26 Section 2. Section 103 of the act is amended by adding
27 definitions to read:

28 Section 103. Definitions.

29 The following words and phrases when used in this act shall
30 have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 * * *

3 "Deteriorated property." The term shall have the same
4 meaning as in section 103 of the act of October 6, 1998
5 (P.L.705, No.92), known as the Keystone Opportunity Zone,
6 Keystone Opportunity Expansion Zone and Keystone Opportunity
7 Improvement Zone Act.

8 * * *

9 ~~"Military installation remediation project." Any of the~~ <--
10 ~~following:~~

11 ~~(1) The cost of remediation relating to perfluorinated~~
12 ~~compounds present in drinking water related to the presence~~
13 ~~of a qualified former military installation.~~

14 ~~(2) The transportation infrastructure and economic~~
15 ~~development costs within a qualified municipality to~~
16 ~~encourage redevelopment of the qualified former military~~
17 ~~installation.~~

18 * * *

19 "Qualified authority." A municipal authority established
20 under 53 Pa.C.S. Ch. 56 (relating to municipal authorities)
21 after the effective date of this definition by a qualified
22 municipality for the purpose of issuing grants for a military <--
23 installation remediation project.

24 "Qualified former military installation." A parcel that was
25 previously used by a branch of the United States Armed Forces
26 for a military installation that was closed based on the
27 recommendation of the Defense Base Closure and Realignment
28 Commission no more than 15 years prior to the effective date of
29 this definition.

30 "Qualified municipality." A municipality which has within

1 its geographic bounds a qualified former military installation. <--
2 OR WATER, SEWER OR STORM WATER POLLUTION IDENTIFIED BY THE <--
3 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY OR THE DEPARTMENT
4 OF ENVIRONMENTAL PROTECTION.

5 "Qualified tax." All of the following:

6 (1) Corporate net income tax, bank shares tax, personal
7 income tax paid by shareholders, members or partners of
8 Subchapter S corporations, limited liability companies,
9 partnerships or amounts paid by sole proprietors on income
10 other than passive activity income as defined under section
11 469 of the Internal Revenue Code of 1986 (Public Law 99-516,
12 26 U.S.C. § 1 et seq.), calculated and apportioned as to the
13 amount attributable to the location within a qualified former
14 military installation.

15 (2) Sales and use tax, only to the extent the tax is
16 related to the activity of a qualified business within a
17 qualified former military installation. The term includes
18 sales and use taxes on material used for construction in a
19 qualified former military installation and business personal
20 property to be used by a qualified business in a qualified
21 former military installation.

22 (3) Personal income tax withheld from employees by a
23 qualified business for work performed in a qualified former
24 military installation.

25 (4) Realty transfer tax paid to the Commonwealth, for
26 property purchased within a qualified former military
27 installation.

28 (5) Local taxes designated by a local taxing entity.
29 The term does not include a cigarette tax.

30 "Qualified taxpayer." A person conducting business for

1 profit in a parcel designated under section 301-A(a) (4) or an
2 individual whose primary residence is in a parcel designated
3 under section ~~301-A(4)~~ 301-A(A) (4). The term does not include a <--
4 person conducting business for profit that moved operations from
5 a non-designated parcel to the designated parcel.

6 * * *

7 "REMEDICATION PROJECT." ANY OF THE FOLLOWING: <--

8 (1) THE COST OF REMEDIATION RELATING TO POLLUTION
9 IDENTIFIED BY THE UNITED STATES ENVIRONMENTAL PROTECTION
10 AGENCY OR THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.

11 (2) THE TRANSPORTATION INFRASTRUCTURE AND ECONOMIC
12 DEVELOPMENT COSTS WITHIN A QUALIFIED MUNICIPALITY TO
13 ENCOURAGE REDEVELOPMENT.

14 (3) THE COST OF REMEDIATION RELATING TO WATER, SEWER OR
15 STORM WATER PROJECTS.

16 * * *

17 "Tax Reform Code of 1971." The act of March 4, 1971 (P.L.6,
18 No.2), known as the Tax Reform Code of 1971.

19 * * *

20 Section 3. The act is amended by adding a chapter to read:

21 CHAPTER 3-A

22 MILITARY INSTALLATION REMEDIATION PROGRAM <--

23 Section 301-A. Military installation remediation REMEDIATION <--
24 program.

25 (a) Applications.--

26 (1) A qualified authority shall submit an application to
27 the Department of Revenue with a list of parcels. The list
28 may include the following:

29 (i) A qualified former military installation.

30 (ii) A parcel in the qualified municipality which

1 was previously subject to development restrictions due to
2 the presence of the qualified former military
3 installation.

4 (iii) No more than 100 acres of parcels in the
5 qualified municipality which are deteriorated.

6 (IV) PARCELS HAVING WATER, SEWER OR STORM WATER <--
7 POLLUTION IDENTIFIED BY THE UNITED STATES ENVIRONMENTAL
8 PROTECTION AGENCY OR THE DEPARTMENT OF ENVIRONMENTAL
9 PROTECTION.

10 (2) The application shall include a copy of the
11 development plan, relevant geographic data, parcel numbers
12 and an economic impact report containing potential State and
13 local revenue impact and such additional information as
14 proscribed by the Department of Revenue.

15 (3) The application shall include a certificate from the
16 local governing boards that approves designating local taxes
17 to be part of the qualified taxes.

18 (4) Parcels included within applications that meet
19 Department of Revenue criteria shall receive full designation
20 for the program described in this section.

21 (b) List.--By June 1 following the effective date of this
22 section and for each June 1 thereafter, a qualified authority
23 shall file with the Department of Revenue a list of all
24 qualified taxpayers located in parcels designated under
25 subsection (a) for the prior calendar year.

26 (c) Contents.--The list under subsection (b) shall include
27 all businesses and residents located in or residing in the
28 designated parcels and all businesses engaged in acquisition,
29 development and construction in designated parcels during the
30 prior calendar year. The list shall include for each business

1 the address, the names of the business owners or corporate
2 officers, State tax identification number and parcel number and
3 a map with parcel numbers.

4 (d) Time.--If the list under subsection (b) is not timely
5 provided to the Department of Revenue, no eligible tax may be
6 certified by the Department of Revenue for the purpose of the
7 transfer under subsection (j) for the calendar year.

8 (e) Parcel report.--No later than June 15 following the
9 effective date of this section and for each June 15 thereafter,
10 each qualified taxpayer shall file a program report with the
11 Department of Revenue in a form or manner required by the
12 department that includes all of the following:

13 (1) The amount of each qualified tax paid to the
14 Commonwealth by the qualified taxpayer in the prior calendar
15 year.

16 (2) The amount of each qualified tax refund received
17 from the Commonwealth in the prior calendar year by the
18 qualified taxpayer.

19 (f) Penalties.--

20 (1) Failure to file a timely and complete report under
21 subsection (d) may result in the imposition of a penalty of
22 the lesser of:

23 (i) ten percent of all eligible tax due the taxing
24 authority in the prior calendar year; or

25 (ii) one thousand dollars.

26 (2) A penalty for a violation of subsection (a) shall be
27 imposed, assessed and collected by the department under
28 procedures specified in Article II. Money collected under
29 this paragraph shall be deposited in the General Fund.

30 (3) Failure by a municipality to include all eligible

1 local revenue shall disqualify the municipality from the
2 receipt of any State or local revenue.

3 (g) Certification.--By November 15 following the effective
4 date of this section and for each November 15 thereafter, the
5 Department of Revenue shall:

6 (1) Determine the amount of eligible tax paid by each
7 qualified taxpayer in the prior calendar year, which
8 qualified taxpayer appears on a timely filed list under
9 subsection (b) and that made a timely program report under
10 subsection (d).

11 (2) Determine the amount of eligible State tax refunds
12 received less the amount of eligible State tax paid.

13 (3) Certify to the Office of the Budget, the sum derived
14 from adding the amounts determined under paragraphs (1) and
15 paragraph (2).

<--

16 (h) Content.--

17 (1) The certification may include the following:

18 (i) Qualified taxes actually paid by qualified
19 taxpayers in the prior calendar year.

20 (ii) Qualified tax refunds paid to qualified
21 taxpayers in the prior calendar year.

22 (2) The certification shall not include the following:

23 (i) Qualified taxes paid by a qualified taxpayer
24 that did not file a timely program report.

25 (ii) Qualified taxes paid by a qualified taxpayer
26 not appearing on the timely filed parcel list.

27 (i) State tax liability apportionment.--For the purpose of
28 making the calculations under the certification, the qualified
29 tax liability of a qualified taxpayer shall be apportioned to
30 the designated parcels under section 301-A(a) (4) by multiplying

1 the State tax liability by a fraction, the numerator of which is
2 the property factor plus the payroll factor plus the sales
3 factor and the denominator of which is three, in accordance with
4 the following:

5 (1) The property factor is a fraction, the numerator of
6 which is the average value of the qualified taxpayers' real
7 and tangible personal property owned or rented and used in
8 the designated parcels during the tax period and the
9 denominator of which is the average value of all the
10 qualified business' real and tangible personal property owned
11 or rented and used in this Commonwealth during the tax period
12 but shall not include the security interest of any
13 corporation as seller or lessor in personal property sold or
14 leased under a conditional sale, bailment lease, chattel
15 mortgage or other contract providing for the retention of a
16 lien or title as security for the sale price of the property.

17 (2) The following apply:

18 (i) The payroll factor is a fraction, the numerator
19 of which is the total amount paid in the designated
20 parcels during the tax period by the qualified taxpayer
21 for compensation and the denominator of which is the
22 total compensation paid in this Commonwealth during the
23 tax period.

24 (ii) Compensation is paid in the designated parcels
25 if:

26 (A) the person's service is performed entirely
27 within the designated parcels;

28 (B) the person's service is performed both
29 within and without the designated parcels, but the
30 service performed without the designated parcels is

1 incidental to the person's service within the
2 designated parcels; or

3 (C) some of the service is performed in the
4 designated parcels and the base of operations or, if
5 there is no base of operations, the place from which
6 the service is directed or controlled is in the
7 designated parcels, or the base of operations or the
8 place from which the service is directed or
9 controlled is not in any location in which some part
10 of the service is performed, but the person's
11 residence is in the designated parcels.

12 (3) The sales factor is a fraction, the numerator of
13 which is the total sales of the qualified taxpayer in the
14 designated parcels during the tax period and the denominator
15 of which is the total sales of the taxpayer in this
16 Commonwealth during the tax period.

17 (i) Sales of tangible personal property are in the
18 designated parcels if the property is delivered or
19 shipped to a purchaser that takes possession within the
20 designated parcels regardless of the F.O.B. point or
21 other conditions of the sale.

22 (ii) Sales other than sales of tangible personal
23 property are in the designated parcels if:

24 (A) the income-producing activity is performed
25 in the designated parcels; or

26 (B) the income-producing activity is performed
27 both within and without the designated parcels and a
28 greater proportion of the income-producing activity
29 is performed in the designated parcels than in any
30 other location, based on costs of performance.

1 (j) Transfer.--Within 10 days of receiving the certification
2 from the Department of Revenue, the Office of the Budget shall
3 direct the State Treasurer to transfer the amount of certified
4 qualified tax from the General Fund to each special fund
5 established for the benefit of a qualified authority under
6 section 302-A.

7 (k) State Treasurer.--Within 10 days of receiving direction
8 under subsection (j), the State Treasurer shall pay into each
9 special fund established under section 302-A the amount directed
10 to the respective authority for use only as provided under
11 section 303-A(a).

12 Section 302-A. Special funds.

13 (a) Notice.--Following the approval of an application under
14 section 301-A, a qualified authority shall notify the State
15 Treasurer and create a special fund to be known as the Military <--
16 Installation Remediation Fund.

17 (b) Establishment.--Upon receipt of notice under subsection
18 (a), the State Treasurer shall establish for each qualified
19 former military installation AND QUALIFIED MUNICIPALITY HAVING <--
20 WATER, SEWER OR STORM WATER POLLUTION IDENTIFIED BY THE UNITED
21 STATES ENVIRONMENTAL PROTECTION AGENCY OR THE DEPARTMENT OF
22 ENVIRONMENTAL PROTECTION a restricted account within the special
23 fund for the benefit of the qualified authority. Interest income
24 derived from the investment of money in a restricted account
25 shall be credited by the State Treasury to the restricted
26 account.

27 Section 303-A. Restrictions.

28 (a) Utilization.--Money transferred under section 301-A may
29 only be utilized for a military installation remediation <--
30 project, the payment of debt service on bonds issued or

1 refinanced for the acquisition, development, construction,
2 including related infrastructure and site preparation,
3 reconstruction, renovation or refinancing of military <--
4 installation remediation projects, or operational costs for the
5 qualified authority.

6 (b) Local effort.--Money transferred to a special fund under
7 section 301-A may not exceed 500% of the local taxes and
8 additional money designated and transferred to the qualified
9 authority by the local taxing authorities for the prior year.

10 (c) Excess money.--

11 (1) If the amount of money transferred to a fund in any
12 one calendar year exceeds the money utilized under this
13 section in that calendar year, the qualified authority shall
14 submit by April 15 following the end of the calendar year the
15 excess money to the State Treasurer for deposit into the
16 General Fund.

17 (2) At the time of submission to the State Treasurer,
18 the contracting authority shall submit to the State
19 Treasurer, the Office of the Budget and the Department of
20 Revenue a detailed accounting of the calculation resulting in
21 the excess money.

22 Section 304-A. Duration.

23 An application approved under section 301-A(a) shall be in
24 effect for a period no later than 30 years from the effective
25 date of this section.

26 Section 305-A. Qualified authority.

27 (a) Composition.--Notwithstanding 53 Pa.C.S. § 5610(a)
28 (relating to governing body), the governing body of a qualified
29 authority shall be composed of the following members:

30 (1) One member subject to the following:

1 (i) If a member of the Senate has a permanent
2 residence in the qualified municipality, the member shall
3 be a member of the governing body.

4 (ii) If subparagraph (i) does not apply, the
5 President pro tempore of the Senate shall appoint a
6 permanent resident of the qualified municipality to the
7 governing body.

8 (2) One member subject to the following:

9 (i) If a member of the House of Representatives has
10 a permanent residence in the qualified municipality, the
11 member shall be a member of the governing body.

12 (ii) If subparagraph (i) does not apply, the Speaker
13 of the House of Representatives shall appoint a permanent
14 resident of the qualified municipality to the governing
15 body.

16 (3) One permanent resident of the qualified municipality
17 appointed by a school district which has within its
18 geographic bounds a qualified former military installation.

19 (4) One permanent resident of the qualified municipality
20 appointed by an authority established to redevelop the
21 qualified former military installation.

22 (5) One permanent resident of the qualified municipality
23 appointed by the governing body of the qualified
24 municipality.

25 (b) Terms.--The following shall apply:

26 (1) Members appointed under subsection (a) (1), (2) and
27 (4) shall serve for a term of five years.

28 (2) All other members shall serve for a term of four
29 years.

30 Section 4. This act shall take effect immediately.